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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 EQUAL EMPLOYMENT
12 OPPORTUNITY COMMISSION,

13 Plaintiff,

14 v.

15 BNSF RAILWAY COMPANY,

16 Defendant.

17 CASE NO. C14-1488 MJP

18 ORDER ON MOTION FOR
19 RECONSIDERATION

20 On January 2, 2020, this Court entered an Order re: Post-Appeal Discovery and Case
21 Schedule. Dkt. No. 186. In that order, the Court commented on the divergent positions taken by
22 the parties regarding how to proceed in the wake of the Ninth Circuit's order remanding the
23 matter—Plaintiff requesting limited discovery and a briefing schedule limited to the issue which
24 was remanded by the appellate court; Defendant arguing that “developments following the
issuance of the Ninth Circuit’s opinion either moot the action and require this Court to dismiss
the entire matter or entitle Defendant to file a motion pursuant to FRCP 60(b) seeking relief from
the final injunctive order.” *Id.* at 2. The Court concluded:

1 The Court agrees with Plaintiff: Defendant's request regarding dismissal
2 and/or a Rule 60(b) motion is outside the scope of the Ninth Circuit's
3 mandate, which is the operative document before this Court and must
4 determine the parameters of the next steps to be taken.

5 Id., at 2.

6 In spite of this language indicating that Defendant's position exceeded the bounds of the
7 authority granted to this Court by the Court of Appeals, Defendant (reasoning “[t]he Court did
8 not order or direct BNSF *not* to file its contemplated motions”; Dkt. No. 187 at 3, emphasis in
9 original) has now moved for permission to file the motions which this Court has already ruled
10 are “outside the scope of the Ninth Circuit’s mandate.”

11 The Court sees no alternative but to treat this as a motion for reconsideration under Local
12 Rule 7(h), requesting this Court to reconsider its stated position in light of some manifest legal
13 error or newly developed facts or authority. Such a motion is not only explicitly “disfavored,”
14 but must be brought “within fourteen days after the order to which it relates is filed.” LCR
15 7(h)(2). The original order was filed on January 2; the deadline for a motion for reconsideration
16 would have been January 16. Defendant’s motion was filed on January 28. Wherefore,

17 IT IS ORDERED that Defendant’s motion is DENIED as untimely.

18 The clerk is ordered to provide copies of this order to all counsel.

19 Dated January 30, 2020.

20 
Marsha J. Pechman

21 Marsha J. Pechman
22 United States Senior District Judge
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